

631 The relations between such independent local groups¹ were not markedly affected either
 642 by genealogical groupings or by political affiliations. Thus war might be carried on between
 721 two uru closely connected by descent from a common parent group, or between parent
 group and offshoot, or between two unrelated groups both owing allegiance to the same
 khan.

721 Such local wars, "barantas" (baranta), were usually considered as reprisals for damage
 628 done by one group to another. They might continue for generations and take on the nature
 of hereditary feuds.²⁸ It is difficult at this time to obtain precise data on their cause and
 origin. According to my informants they usually resulted from thefts of cattle, raids on
 hay fields, and personal injury or murder committed by members of one group against those
 [627] of another. Such episodes in inter-group relations would normally first be referred to a meet-
 ing of the bij and aqsaqal of both groups. The meeting was called bitim, literally "peace" or
 "truce." Here an effort was made to fix responsibility and the amount of damages to be
 paid in compensation for the injury done. If the immediate parties concerned were not par-
 ticularly important individuals a decision agreeable to the leaders of both groups would
 probably be reached amicably and the offending party ordered to pay the proper fine. If,
 however, the principals to the dispute were both influential men in their respective groups
 the meeting would probably end in a disagreement because a judge would rarely agree to
 a decision counter to the interests of a powerful member of his own group, who would
 probably be his close relative. In case of such a deadlock the man who considered himself
 the injured party might gather his own followers, and if sufficiently influential his whole
 uru, and proceed to make a small scale war upon his adversary. Such wars might indeed
 be major military operations if the importance of the individuals concerned were suffi-
 ciently great.

It therefore becomes difficult to distinguish between barantas as cases of personal re-
 venge and as wars involving whole uru which were obliged to support the interests of their
 leaders. Levshin, however,²⁹ describes an instance of a baranta of a private nature entered
 upon by an individual to collect damages to which he was entitled by judgment of the court
 but which had not been paid. In this case, according to Levshin, the injured party was
 authorized by the chief of his aul to exercise reprisals, but on his return was obliged to
 swear that the amount of damage which he had done or booty which he had collected did
 not exceed the amount of the original claim. Levshin³⁰ states elsewhere that whereas for-
 merly a baranta was only entered upon after deliberation by the chiefs in cases of culpa-
 ble refusal to pay judgments, in his time any malcontent who could gather around him a
 band of followers might attack the herds and dwellings of his enemy.

628 The essential problem connected with the subject of baranta is the extent of solidarity
 565 of the uru and its collective responsibility for injuries done to its blood members. Here it is

²⁸ See Levshin, *Déscription des hordes*, 302, 349-51, 400, note 1; Dingelstedt, *Le Droit coutumier*, 454.

²⁹ *Déscription des hordes*, 400.

³⁰ *Idem*, 349.

¹[sec cat. 116, p 65 -- Analyst]

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again necessary to distinguish between theory and practice. In theory the uru was supposed to avenge any injury done to one of its members for which compensation was not forthcoming, and on the other hand was collectively responsible for the payment of damages for any injury which one of its members might commit against a member of another group. In practice, however, according to my information, class affiliations were in general of greater importance than blood relationship. Whereas, as mentioned above, disputes between powerful individuals of different groups would commonly lead to war involving all their kinsmen and followers, the humbler members of the uru could not count with any certainty upon receiving support from their wealthy patrons. If, of course, the leaders of the uru were looking for a pretext to begin hostilities they might seize eagerly upon an injury done to any of their followers which would serve to justify their action. On the other hand if it suited their policy to remain on good terms with the opposing group the victim would obtain scant sympathy. He might perhaps resort to direct action to obtain redress but in the event of coming to grief would be disavowed by his own uru. In opposite circumstances an influential individual responsible for an injury might requisition the amount of the damages from his henchmen, if he decided to pay them at all, while the poor man could only hope that his patron would feel generously inclined. The claims of kinship were weighted in favor of the upper class and the right of resorting to arms tended to become their prerogative.

LAW

In the previous section I have discussed baranta as the ultimate means of settling disputes by recourse to arms. Normally, however, it would be considered only as a last resort. For the settlement of nearly all possible grievances of one individual against another the Kazak had elaborate provision in their system of customary law.²¹

Under this legal code all actions were considered as claims for damages by one party from another. No action could be taken against an individual in the interests of society as a whole but only on the charge of specific injury to person or property brought by the victim.²²

Such charges did not distinguish between civil and criminal offenses. All injuries from murder to the misuse of borrowed property might be compensated for according to an elaborate tariff of fines, damages and reparations. It was the office of the bij, or judge, to fix the responsibility for damage done and to determine the amount of compensation to be paid.

This was accomplished through a process of trial involving the examination of witnesses for both sides under oath. It is difficult at the present time to estimate accurately the nature of trial procedure in the days prior to the Russian occupation. Most accounts of

²¹ Adat or zaq; the former is the borrowed Arabic term, the latter Turkic. See Grodekov, *Kirgiz i Kazak*, 20.

²² Dingelstedt, *Le Droit coutumier*, 321.

1 [see cat. 116, p. 66 -- Analyst]
2 [see cat. 116, pp. 66-67 -- Analyst]

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another. It would be necessary for them to "go to another aul, or to the mountains, or to the city."

A comparison of Kazak legal institutions as they appear to have existed at the beginning of Russian penetration with those of earlier Turkic and Mongol codes³⁸ suggests a gradual substitution of the principle of compensation for that of blood revenge and the *lex talionis*. Vladimirtsov indicates³⁹ that blood vengeance was already declining in the thirteenth century. The influence of Moslem jurisprudence⁴⁰ is also evident in this transition among the Kazak especially in the emphasis placed on witnesses and the oath. The fact that the Koran⁴¹ specifically forbids a Mohammedan to kill another believer intentionally may also have had some restraining effect on personal feuds.

³⁸ Riazanovskii, *Customary Law of the Mongol Tribes*, 70-81; the Kazak legal code attributed to the Khan Taisia at the beginning of the eighteenth century (Levatin, *Description des hordes*, 398-401) is similar in many points to the laws of Chingis (Riazanovskii, *op. cit.*, 57), but emphasizes the element of compensation lacking in the latter. See also Riazanovskii's *Customary Law of the Kirghiz*, 207-11.

³⁹ *Obshchestvennyi Stroi*, 93-94.

⁴⁰ Levy, *An Introduction to the Sociology of Islam*, 1: 213-274; Riazanovskii, *Customary Law of the Kirghiz*, 212.

⁴¹ *Holy Quran*, 4:13-93.

576 Did your father die?" They also avoid calling someone from a distance.

/12/ CHAPTER II.

The clan principle. - Custom

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The enormous importance of the clan principle (1) stems from

1. On the clan origin as the most ancient stage of social development of all peoples, cf. *Pervobytnoe Pravo /Primitive Law/* by Makim Kovalevskii, Moscow, 1886, Pt. 1. Clan.

[695] the law of force: the individual finds defence only in his clan. The clan answers for his transgressions. The propitiatory oath is imposed not on the responsible individual but on another person from his clan. (2)

2. Hence a man without a clan or a musafir always risks losing a case, being unable to procure his kinsmen to take the oath.

[672] The exaction of payment is also received not by the person but by the clan. When wergeld is not paid, not necessarily the murderer, [628] but any person from his clan is killed. A bride belongs not to a [587] person but to a clan. A widow goes to the nearest relative of the deceased, and a divorced woman must choose a new husband from [429] the clan of her former husband. The nearest kinsman is always the guardian. Guests are received according to their degree of kinship.

The bearers of the clan principle are the rich men and the senior elders (aksakals). (3) Beyond the names of their direct ancestors and

3. Among the Sarts the aksakal is an administrative figure - a village elder. Among the Kazakhs he is the person in a given place who has the highest authority by blood.

their clan and lineage, the poor know nothing of the distant branches of their kin.

The volost administrators elected by the people retain their posts only when they belong to the strongest clan in the volost.

The decline of the clan principle is marked by frequent litiga-

593 fourth time are they obliged to return what they have taken. The
685 son of a married daughter, who has not succeeded in being granted something from his grandfather, takes it without permission and does not give it up for /34/ the first three times. The fourth time the bii sentences him to return the thing without a penalty, but a penalty is fixed for a fight at the time the thing is taken. All this relates also to the close kinsmen in general.

When the thief denies his guilt, the bii interrogates witnesses, but he is not sworn among kin. Incidentally the bii consoles the father (or kinsman) by the fact that he takes from the son in his turn when the latter becomes rich (collected in the Perovsk uyezd).

593 Patricide is unknown in the steppe. For this crime they would
682 banish the offender from the society after a preliminary disgrace E. A. Aleksandrov, assistant to the chief of the Kazalinsk uyezd, says that the customary law is silent concerning patricide. The killing of children can happen by mistake, and in such a case it is not punished. (1)

[847] 1. It sometimes happens that the Kazakhs in a fit of anger and in general in matters of dispute, in showing their opposition throw their children under the /horse's ?/ legs of the adversaries, who not infrequently trample them in fighting. Women especially practise this kind of opposition, throwing unweaned children under the feet of horses. Wergeld in such cases is sought from the persons in the tent or in the village.

593 Children who have not received their allotment cannot have their own separate property. But once they have received their allotment the father ceases to distribute his property to them.

[882] Until the age of 12-15, children are not yet of serious mind
[675] (akyl toktatpaidy), and therefore sales, purchases, loans and other arrangements by them are invalid. Buying and selling done against the will of the father by a son who has not yet received his allotment is not broken.

The power of the mother rests on the power of the father. Children obey her for fear that she will tell the father.

When a father wishes to free himself from an incorrigible son, he gives him a small allotment, leaving him to his own devices to earn the kalym /bride price/ if he is unmarried. If this son is already married, the father expels him without an allotment, leaving him to earn

often more. For the mutilation of a woman, half as much wergeld is paid as for the same mutilation suffered by a man. 562 [681]

In contradiction to the report of I. I. Ibragimov in "Zamtki o Kirgizskom Sude" /Notes on Kazakh Justice/, St. Petersburg, 1878), concerning the judgment of affairs of widows of prominent Kazakhs, Torgai holds that the widows of such persons are not turned to for judgment, and that even if they asked the woman, she could not decide the affair. She can only assist in the pacification between husband and wife, saying to each: Stop, do not scold, this is shameful (koy, yaman syuileme, aib bulady). (2) According to the report

2. According to Makovetskii, I, p. 31, a village is sometimes ruled by a widow temporarily, until her sons reach majority. On the matriarchy as the oldest structure preceding the patriarchy, cf. Pervobytnoe Pravo /Primitive Law/ by Maksim Kovalevskii, Pt. I, Chapter III: The maternal clan.

of bii Sultan Kanaev, although a woman cannot be a bii, in some villages one can find women who do judge the affairs of women (khatyndy biyley tugun).

/96/ Women do not take an active part in war. If they have enough spirit (gayrati kelse), they defend their village against attacks (Abdrakhman). In one folk epic the wife, named Khanekey, accompanies her husband Zarlyk on an expedition to free the husband's sister.

The woman nurses the wounded relatives. The care of those who are not relatives is left to her good nature. [612]

E. A. Aleksandrov reports that custom in general forbids women to slaughter animals, but in extremity when the men and grown boys are absent from the village a woman can slaughter a sheep for food, carrying out all the necessary religious ceremonials. [231]

Children out of wedlock can fail to be adopted. Then they go to 848 to seek their father.

The children of a girl who is not betrothed to their father also go to seek their father. A bridegroom does not consent to take a bride with strange children. He is more apt to make a raid (barymta) to kill the father of these children (Perovsk uyezd). [628].

The people do not permit unlawful cohabitation, but it does exist, and in such cases the men call the women living with them servants, as though they were working for wages. The women in 588

Folk custom not only permits but also obliges the persons who have suffered to avenge the crimes committed against them. The avenger is usually the person who has suffered, but a part or even the whole clan has a right to take part in the revenge. The entire clan considers itself obligated to avenge a case of the secret kidnapping of a girl by a Kazakh of another clan, or the driving away of a considerable number of livestock, which may belong to only one person, but one who is honored by his kinsmen. Also specific insults not only of an honored member, but of any Kazakh, which are made by a mob, call for armed defense and the resentment of the entire people. 628

The limit of the revenge is considered to be doing harm to the adversary on an equal level to the harm suffered from him. Then the hostile lineages or clans already take part in pacifying their members. But if the avenger does not cease to wreak damage on his adversary, he is subjected to fines of an atton or higher, and in extreme cases to corporeal punishment on the part of his kinsmen. The fines go for the use of the person suffering from superfluous revenge.

Peaceful agreements are permissible in every offense and crime. The fines in such cases (outside of court) go to the use of the person who suffered, or else, when they are considerable, they are divided among the closest kinsmen of the receiver.

Although custom does have the concept of more /143/ serious and less serious crimes, it does not divide them into criminal and civil crimes. 673

A crime which is committed with premeditated intent increases the blame. The commission of a crime with provocation, especially if it is called forth by the sufferer, lightens the blame. Circumstances which lighten the offense are: the thoughtlessness of the transgressor, or the honor and respect he enjoyed before the crime was committed. The commission of a crime in the steppe in an open place by day lessens the offense. A crime committed in a tent at night increases the offense. Poverty does not lighten the guilt. It does not excuse thievery, for example, for the clan is held responsible. A clan which has not helped a poor man, pays all claims against him three times, each time compelling him to reform, and forcing him to make promises on his oath. (1) The commission of a crime in a state of drunken- 672

1. After the third time he is driven out. A poor man and a person without a clan gives up his daughter in place of money, and pays off the sum required of him from the 685

receive wergeld and other exactions for a thief.

Secret driving away of livestock is not called baranta, (2) but ⁰⁰⁰ [683] ₆₂₈

2. In the customary laws of the Caucasian mountaineers, p. 366, it is stated: Baranta has several meanings: a) livestock; b) crime, in the sense of ordinary theft, taking away by force, and seizure of a strange object; c) military seizure, driving away or capture of people and livestock; d) punishment, in the sense of stealing and plundering according to the old Russian law, most recently the confiscation of property; e) the seizure of strange property before trial, to ensure the rights of the creditor, also in the case of lack of satisfaction for personal injury, material loss, etc.; f) measures for the assurance of the fulfillment of the court decree. g) the right of the relatives of a murdered man to rustle /"barantovat"/ the property of the murderer before the carrying out of blood revenge. Finally h) the right of a prince to confiscate property from his subjects.

stealing. Also the word baranta should not necessarily be taken to mean a raid with the purpose of stealing without a special reason for it. For a raid to be able to be called baranta (barymta), it is necessary 1) to make the departure by day and not by night; 2) to have the raid openly announced as baranta; 3) for the raid to be aimed at obtaining satisfaction for some sort of loss, theft, murder, kidnapping of a bride or wife, offense, etc. (3) /171/ Baranta also takes place when

3. In the report on the revision of the Kazalinsk uyezd (Prikaz po voennonarodnomu upravleniiu Syr-Dar'inskoi oblasti / Order for the military-national administration of the Syr-Darya oblast/ of July 30, 1886) an example is entered from the books /171/ of the extraordinary session: the Kazakh widow Manteke Sundetova complained that the Kazakh Ismailov had taken her daughter by baranta /zabarantoval/ and that she had spent 100 rubles to hire people to pursue the kidnapper, and she asked that the defendant be required to pay 1280 rubles for the defamation.

the defendant does not permit the requirement of the bii to be exacted from him.

According to bii Kunakbay, baranta does not take place for only one offense, or for the rape of a bride without taking her away, etc., when no losses (chygyn) resulted because of this offense, etc.

628 Baranta is directed not only against the livestock of the adversary himself, but also against the livestock of any of his kinsmen, (1) even if it be his aksakal. In the first case the property

1. Compare the customary laws of the Caucasian mountaineers, Section VI. the customary laws of Rustemkhan of the 12th century, 81: "baramta is to be taken from those who are not divided from the clan of the accused"; 49: "A fine is required from anyone who does not allow the baramta on his own account."

taken by baranta is regarded as satisfaction, and in the second case as a pledge that in case of a court examination the stolen goods will be recovered or that satisfaction will be given in general.

A person engaged in baranta chooses the property on which he has a claim, with a small addition for difficulties and losses on the raid. But he is held responsible for extra damages inflicted during this raid, and for an immoderate seizure of property.

Baranta has existed only between various uyezds. Complaints concerning it have been presented in the name of the ~~military~~ governor, who has appointed an extraordinary session among the uyezds.

During the time of the Kazakh khans, baranta was little different from war. Even now baranta is called war (yau buldy). The attack did not pass without atrocities. They placed people in irons and bound them to trees regardless of the participation of the person bound, etc. Among the Kirgiz they bound people and cast them into the water.

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Suits concerning events which took place before a general peace treaty (salavat) between disputing clans are not accepted, or remain /172/ without consequence (baska kaldyrduk), with the exception of affairs concerning matchmaking and wergeld. The conquest of the region by the Russians constituted such a salavat, and even the fullest kind of salavat, for it was forbidden to examine even matters of wergeld and matchmaking pertaining to the Moslem period.

In the conclusion of a salavat they say: "utken uryul kalgan

salavat", i. e., complaints were mutual and therefore were considered satisfied, and if complaints remained unsatisfied, these were forgiven. They cut an aladzhip¹ cf. Chapter X/ for the consecration of the ending of old accounts, without appeal, and of full pacification, and now they give vouchers.

A partial salavat is forgiveness before a certain time (mund-zhal). Disputes which went on before that time are forgiven (beregini suraymyz arigini suraymaymyz).

The presentation of a suit, several years (3 years, for example) after an event took place, complicates the examination. Therefore such a suit is settled by a testimonial oath. But if there are no witnesses the suit is not accepted for examination at all (kaldyrary) (the Perovsk and Auliye-Ata uyezds).

In the Kazalinsk uyezd suits are subjected to examination before, the death of the defendants and likewise before the death of the plaintiffs. If heirs remain who know of the claim they can revive the affair. An affair which has been ended by salavat² cannot be reopened. But if the side which suffered presents a suit through a court after a salavat, the judge must convince himself of the salavat by witnesses. The confirmation of the salavat means a fine of atton for the person bringing suit, which goes to the judge, and the person who brings such a suit lacks the confidence of his kinsmen.

Limitation is recognized only in small crimes which remain undisclosed for not less than five years. But for murders and marital matters there is no limitation. A groom, who has been absent without sending word, has the right on his return to demand the bride or the return of the kalym. If the former bride has married, a sister or niece is substituted for her. According to Torgai, suits concerning a bride and kalym are accepted for /173/ examination to the third generation, i. e., to the grandchildren. When there is a denial, they swear an oath, as is normal. Other suits are accepted only up to 5 or 6 years. Suits founded on vouchers are accepted up to 10 years, if the defendant could not be found earlier. After 10 years even wergeld is subject to salavat, i. e., limitation. Now a salavat is put down only after 5 or 6 years, with the condition that nothing was known of a murder in this time. Ten years are allowed, however, if something was known of it, but the murderer hid himself. If a thief was caught, released on bail and promised to give satisfaction, but fled, then a suit may be revived for up to 10 years.

¹[See cat. 116, p. 161--A.]

²[Peace treaty between disputing clans; see cat. 116, pp. 153-154--A.]

⁷⁴⁸ [189 cont.]

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⁵⁷⁷ our border by Kazaks of the Little Horde. Such were the first proofs of the [190] protection of our trade in Asia promised by Khan Abulkhair.

⁶⁴³ A second proof of the impotence of the princes, or rather the Kazak chiefs, was seen in 1740 when Karasakal, chief of the Bashkir rebels, fled beyond the Yaik with his accomplices. The Khan and the sultans absolutely refused to arrest these deserters.

All these circumstances, and particularly the pillage of the caravans, caused Abulkhair to be embarrassed about appearing in Orenburg in 1740 for a meeting with Prince Urusov, and he sent excuses that he was ill and too far away.

To these two reasons, which he gave openly, a third must be added, which was secret. He knew that at this time Abul Mahmet, new khan of the Middle Horde, was expected in Orenburg. ⁵⁵⁴ This man was his enemy and one over whom he had pre-eminence, and he was afraid of seeing the other treated as his equal. But in order to avoid reproaches and dispel suspicions, he sent the Sultans Nurali and Erali, his sons, to Prince Urusov.

On this occasion they were received with all the honors which had been shown their father two years before. The Kazaks ⁵⁷⁴
⁵⁷⁶ who accompanied them were also treated with special regard. Seventy-five elders dined at the table of the chief [Prince Urusov?], and food and beer were distributed to the persons of their suite outdoors.

Although Sultan Nurali was at that time a grown-up man, yet his father had given him as a preceptor during his trip to Russia a man, Batyr Djanibek, who was universally esteemed among the Kazaks and known for his wit. He was received in Orenburg practically as an equal of the sultans, and with them received rich gifts at the first meeting in the name of the Russian government.

⁵⁷⁴ The first visit of the Khan's sons to Prince Urusov was only a ceremonial visit and an exchange of pleasantries. At the second meeting the affairs of the horde were discussed. [191] They explained that the first caravan sent by Tatishchev was pillaged by the Great Horde, over which they had not the slightest influence.

[301 cont.]

The Little Horde

631 At its time of origin the Little Horde was composed of the
619 powerful Alchin descent line and of seven small tribes, which,
611 during the [302] civil wars and reprisals (baranta (1)), were not

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1. Among the Kazaks, the name baranta is given to the raids they make against each other, most often as reprisals or as a consequence of hereditary vengeance.

strong enough to resist the Alchin descent line, which was more numerous, but were combined by the famous Tiavka, khan of the Kazaks, into a single descent line which is known today as that of the Seven Tribes (Semirod). The ancient name of Alchin is still found in Khan Abulkhair's correspondence with the Russian government in the first half of the last century. This descent line was composed of two stocks, called Alimuly, that is "the sons of Alim," and Baiuly, that is, "the rich sons." Later the new subdivisions which took place in this horde caused the generic name to fall into oblivion. But the names of the two stocks, to which the name of the descent line belonged equally, survived. For this reason the Little Horde is divided today into three principal parts, namely: I. The Alimuly descent line; II. The Baiuly descent line; III. The Djetir-urug descent line, or that of the Seven Tribes (Semirod).

1. The Alimuly descent line is composed of six tribes, whose names are Kara-Sakal, Kara-Kissiek, Kitie, Dört-Kara, Chumekei, and Chikly.

II. The Baiuly descent line is composed of the following 12 tribes: Adai, Djapas or Yapas, Alacha, Baibakty, Maskar, Bershch, Tazlar, Issentemir, Cherkes, Tana, Kizyl-Kurt, and Shikhlar.

III. The Seven Tribes (Semirod) descent line is composed of tribes which are called Tabyn, Tama, Kerdery, Djagal-Baiuly,

221 [312 cont.]

1484 have their principal festivals at this time also. They also choose autumn to practice barantas (2), for this season is favorable because

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2. See footnote 1, Chapter II, page 167, on the barantas.

of the darkness of the nights and the vigor of the horses, which have been restored in good pastures for a whole season and are all the better disposed for long-distance and rapid running.

361 The Kazaks rarely camp in large numbers in the same place,
721 for their herds would be too cramped for space. But they form groups of several families, united by ties of blood or by reciprocal advantages. These groups move in a body from one place to another and do not separate unless there are important reasons. These mobile villages are called auls. The number of tents which comprise them depends on the circumstances.

101 Some Kazaks live in Khiva, the dominion of Bukhara, the
241 possessions of [313] China, in Tashkent and Kokand, and in these
342 places they have houses, lands, and gardens (1), but their number is very limited.

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1. It is said that in the last years of the 18th century, Karabulat, a rich Kazak of the Durt-Kara tribe of the Little Horde, built a small fort made of clay on the shore of the Syr [Darya]. Inside he built a small mosque, also of clay, and lived near it in his tent, in the midst of a large number of his kinsmen and faithful adherents, who camped with him. This fort, which soon tumbled down, was called Kara-Bulat-Tam i. e., "Karabulat's wall." Caravans came to this place to buy provisions and paid a small toll to the lord for free passage across his pasture lands. There were also some cultivated lands near the fort.

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[315 cont.]

often as its own expense, and has used every means of persuasion to induce certain individuals among them to settle down, at least to provide an example. But all these efforts have been futile.

their tents to live in houses. Next let us examine the ethical relations of the tribes and descent lines. Vengeance carried out by one individual against another, the participation of their families in it, their auls, their /clan/ divisions, and sometimes their tribes, and the perpetual reprisals which result from this, sometimes require hundreds of families to move away from their dwelling places and to withdraw much farther away, forever, in order to evade the persecutions of their enemies.

It is thus that the entire Karakalpak nation, which had lived independently under the orders of its own khans on the [316] shores of the Syr [Darya], lost its existence as a state in the last years of the 18th century and was forced to disperse as a consequence of the frequent attacks of the Kazaks and the acts of vengeance that they carried out to wipe away old injuries.

In 1740 a large part of the Middle Horde, with its khan, Abul Mahmet, occupied the eastern shores of the Khobda River. Abulkhair lived most often on the shores of the Syr [Darya] or the Kuvan. This is why he wrote to Nepluev in Orenburg in 1742:

"I am with the Little Horde on the Syr [Darya], and the Middle Horde is near you, General." Today it is the opposite. None of the tribes of the Middle Horde are near Orenburg. Several of the auls of the Alimuly descent line in 1821 even came to make their winter camps on the banks of the Ilek, although they had always

had them on the Syr [Darya], as a result of internal dissensions, during which their enemies were supported by the khan of Khiva.

At the same time several auls which habitually camped near the Russian border withdrew toward the land of Khiva. All this leads us to the conclusion that the present way of life of the Kazaks and the nature of the land they inhabit do not permit them to form permanent establishments, and that for their own advantage as

/216 cont. /

692 peasant chief). The latter settle cases for all sums, but a final decision can be made in cases involving a sum no higher than 500 rubles.

[648]
[175] Attempts by the Russian government (in 1830 and the 1850's) to reform the people's court ended in failure and made its position so much worse that the reform of 1868, which returned to the old electoral basis of the courts, could not restore the necessary respect to the court. The present biy is a candidate of a certain party, acting in its interests. The court of the biy is held publicly, and a great role is played by the oath of the witnesses or guarantors of the litigants. In addition to the court of the biy there is a domestic court (a survival of the patriarchy) of chosen kinsmen or of one "aksakal." These men conduct the affairs of the clan and are not subject to the control of the biy. Finally there is a court of arbitration which is usually turned to before the people's court.

628 Here one should mention the baranta -- the restoration of violated rights by force or by "one's own judgment." It consists of driving away the livestock of an offender. The best riders of a village take part in a baranta, and much courage and cleverness are necessary to seize horses from the village of the offender. The village that suffers in turn undertakes an attack by way of revenge on the village of the attackers. It can happen that whole volosts take part in a baranta (1).

[648] 1. The immigrants to the Akmolinsk oblast had to cope with baranta in the very first days of their life in the new land. The Kirghiz /Kazak/ not only took the horses from the fields, but also pulled the stables down. In this way the Kirghiz /Kazak/ avenged the restriction of their land which was taking place.

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622 The patriarchal relationships within the clan and the family are also maintained. The aksakal (the chief of the clan)

judge dispose of property which was not his own.' The unit of property ownership was the family, and still is. 000
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The clan was a military unit, and supplied companies of armed and mounted men to the armies of the khans and sultans. Each clan company fought under its own leader, and had its own distinctive rallying cry (in Turkic uran, from which "hurrah" is derived) which was usually a repetition of the names of illustrious leaders and warriors of the clan. These companies were used not only in wartime but in any time of trouble; they were called to help during feuds, for example, or in fending off thieves. 619
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The clan supplied the khan with taxes in kind (usually livestock), in money, and in labor service. Taxes in money were not common, since money itself was a rarity on the steppe, and was to be found in the hands of traders and moneymen rather than among clansmen or clan leaders. The taxes paid by the clan to the khan were collected by the clan leader and paid for the group as a whole. Aside from livestock, the clan paid in labor service, reckoned in terms of transport duty and communications (messenger service). And the clan supplied able-bodied men in military companies under its own leaders, as required by the khan. The last century in which this system actually worked as a normal matter was the 18th century. By then the Kazakhs had been definitely divided into three hordes, and the khans ruled over each horde separately. By the 19th century, there were only two types of khans, those who came forward to unite their people against the Russians, such as Kenesary and Taimanov, and those who were maintained by the Russians, such as Khan Buket of the Inner Horde, and his line. 614
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It is perhaps surprising to find a society in which the members are all theoretically related to each other by ties of blood, yet which is riven by class distinctions and by unequal distributions of ranks and privileges. Yet this is the case among many peoples of Central Asia, such as the Uzbeks and Kazakhs, and of Eastern Asia, such as the Mongols. The basis of social differentiation is the ranking of descent lines according to the order of birth of the founders. Once this differentiation is established, and the society is divided into aristocrats (by virtue of primogeniture) and commoners, more complex divisions follow. A leader or khan is then set up as the first among the aristocrats, and he forms a court of aides, ministers, viceroys, field commanders, priests, and so forth. The khan may ennoble a commoner as a reward for bravery in the field, or because he is literate and hence of exceptional utility to the state. 565
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Theoretically, then, all Kazakhs are related to each other by ties of blood. This does not mean that they are all actually descendants of one founding ancestor, for such a figure lies so far in the past that it is necessarily mythical; the truth or falsity of the tradition can no longer be shown. In addition to the myth, however, the establishment of kinship is also achieved by another kind of fiction. Kinship may be based on adoption, whereby a son is regarded as though he were the 602
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681 Among almost all ancient peoples and among the Kazakhs there existed the law of retribution, that is, death for murder or rape - and mutilation for mutilation. But time and the prevalence of a new order have changed this custom. However, down to the Russian domination, ransom was permitted for murder. For the death of a man a thousand horses were usually paid, and half that for the murder of a woman. This ransom is called 'kun', and when the crime can be hidden from the Russian authorities this is done even today.

692 In general all legal judgments, civil and criminal, just as all public affairs; according to custom can never depend on the will of one person, but are always made with the agreement of several elders, beys or honored persons in general. These persons had and still have today the right to receive a tenth part of the property of the guilty person, or, if it is a civil matter, the same share from the payment of retribution which they decide. The 'baranta' is a completely unique crime among the Kazakhs. 696 The beginning of these feuds was almost 628 always legal, that is, they usually began from the unwillingness /347/ of one of the contesting parties to abide by the decision of the elders. In such a case the injured party had the legal right to obtain satisfaction by force, that is, to make raids, steal cattle and capture the people. It is self-evident that those who were plundered did the same in return, believing that more had been taken from them than should have been according to the legal judgment. Thus the stealing, robbery and murder committed by both sides confused the question more and more, and quarrels and feuds lasted in this way for decades, eventually even dividing clans.

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At the present time these internal quarrels have almost all been ended, or, to be more precise, they cannot break out in the old form because the Russian forts and the Russian authorities prevent it. So the word baranta has gradually received a somewhat different meaning. Now it means either simply robbery, or else banditry, which is prosecuted very severely by the Russian authorities.

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In earlier times the Kazakhs had slaves from all the surrounding nations of different religious faith. Even Moslems, - Shiites, e.g. Persians, who were considered heretics, were taken as slaves. Finally, since the religious principle is very weak among the Kazakhs, they took practically everyone who fell into their hands as slaves, without making a refined analysis of their trend of thinking. Now with the installation of Russian authority slavery on the steppe has gradually disappeared.

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Religious instruction. The Kazakhs, as we know, are Moslems, and are usually considered Sunnites, although this is absolutely without foundation since, broadly speaking, these people are very undeveloped at the present time in regard to religion, and do not know themselves exactly to what religious sect they belong. Most Kazakhs have only a vague idea of the existence of two Moslem sects, Sunnite and Shiite. Not only that, the actual essence of the religion is completely unknown to them. This is probably explained partly by their nomadic form of life, and partly by the fact that they have lived and live still surrounded by peoples of various religions: Christian, Moslem and pagan, who are all equally antagonistic.